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EXAMINER

IBRAHIM, MOHAMED

ART UNIT	PAPER NUMBER
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2144

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/629,597

Applicant(s)

MARTIN ET AL.

Examiner

Mohamed Ibrahim

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

MSB

Response to Amendment

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8 10-12, 14, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Torikka et al (Torikka), U. S. Patent No. 6937577.

Regarding claim 1, Torikka discloses a data management device for a communication installation including at least one base station having resources (see e.g. fig. 1 item 12, base station is shown) and at least one terrestrial node connected to a core network and to said base station to control its resources via an interface (see e.g. fig. 1 item 14; base station controller is shown) which device includes control means adapted to be coupled to a traffic source and to said interface and adapted to take local control, on command, of at least a portion of said resources of said base station, instead of said node, to enable transfer of data between said traffic source and said base station (see e.g. fig. 1, abstract, col. 4 lines 42-52, col. 3 lines 7-12 and col. 4 lines 57-67; the system comprises of a base station (BS) which is arranged to communicate via interface and controlled by a Base Station Controller (BSC) which enables data transfer

between the MSC and base station).

Regarding claim 2, Torikka discloses wherein said control means include at least a portion of a stack of protocols dedicated to management of said resources so as (see e.g. fig. 7; device rack): to manage the configuration of at least one portion of at least one cell managed by said base station and the associated resources, to control at least one portion of the configuration of data transport channels managed by said base station (see e.g. col. 3 lines 3-6 and 13-20; configuring the functionality of at least one node by modifying the software in at least one board unit of said node), to manage "resource" events generated by said base station and representative of the status of its resources (see e.g. col. 2 lines 17-29 and col. 3 lines 51-63; allocating resources to a node within the network), and to check that identical configuration information is held by said base station and said node (see e.g. col. 5 line 66-col. 6 line 4 and col. 8 lines 47-61).

Regarding claim 3, Torikka discloses wherein said control means include at least a portion of a stack of protocols dedicated to managing synchronization of channels under the control of said base station (see e.g. col. 4 line 57-col. 5 line 3).

Regarding claim 4, Torikka discloses wherein said portions of said stack of protocols dedicated to resource management and synchronization are chosen from a group comprising at least a portion of the Node B Application Part protocol, at least a portion

Art Unit: 2144

of the Radio Resource Control protocol, at least a portion of the Frame Protocol, at least a portion of the Radio Link Control protocol, at least a portion of the Medium Access Control protocol, at least a portion of the Packet Data Convergence protocol, and at least a portion of the Broadcast/Multicast Control protocol (see e.g. fig. 2, fig. 8 and col. 8 lines 13-22, 39-46; the system provides the use of Medium Access Control, Packet Data, Radio resources and Radio Link).

Regarding claim 5, Torikka discloses wherein said control means include a filter module adapted to filter said traffic from said traffic source and said traffic from said node (see e.g. col. 8 lines 25-26; system provides the use of ALT board to prioritize the traffic).

Regarding claim 6, Torikka discloses wherein said control means are adapted: to send said base station a resource reservation request on receipt of a request to transmit traffic to at least one user equipment situated in a cell managed by said base station and coming from said traffic source, to send said node a message indicating that said available resources are blocked on receipt of a response message generated by said base station indicating availability of resources, and to send a message to said base station to release said resources that have been used and a message to said node to tell it that said resources have been unblocked when said traffic from said traffic source is finished (see e.g. figs. 3, 4 and 10, col. 1 line 63-col. 2 line 3, col. 3 lines 51-62, col. 47-65 and col. 10 lines 6-26; the system enables the send and receive of data from a node in the telecommunication network to the base station, via interface. The base

station controller serves as the means and management device that enables the BS to send its resources to requesting node in the telecommunication).

Regarding claim 7, Torikka discloses wherein said control means include a message generator module adapted to send said node said messages indicating that resources have been blocked (see e.g. fig. 7 and col. 3 lines 21-32).

Regarding claim 8, Torikka discloses. The device claimed in claim 3 wherein, in an installation including means adapted to transmit data from said traffic source by radio, at first and second frequencies, respectively to user equipments situated in a cell managed by said base station and to said base station (see e.g. col. 2 line 65-col. 3 line 6; installation and modification of resources), said control means are adapted to calculate a transmission difference representative of the difference between the transmission times of said data at said first and second frequencies and to delay data received and to be transmitted to said base station by an amount substantially equal to the calculated difference (see e.g. fig. 1 an col. 4 line 57-col. 5 line 8).

Regarding claim 10, Torikka discloses wherein said control means include a synchronization adaptor module adapted to calculate said transmission time differences between traffic from said traffic source and from said node (see e.g. col. 5 lines 47-65).

Regarding claim 11, Torikka discloses further including a module provided with a

Art Unit: 2144

connection interface (see e.g. col. 3 lines 21-27; connection to ATM interface).

Regarding claim 12, Torikka discloses wherein said module is adapted to be connected to said base station via said connection interface (see e.g. col. 4 lines 57-62).

Regarding claim 14, Torikka discloses. The device claimed in claim 1, adapted to be installed in said base station (see e.g. col. 3 lines 3-6 and col. 7 lines 61-67).

Regarding claim 16, Torikka discloses a communication installation including at least one base station having resources and at least one terrestrial node connected to a first core network and to said base station to control its resources via an interface, which installation includes a device as claimed in any preceding claim (see e.g. col. 1 lines 22-36).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9,13, 15, 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torikka in view of Karabinis, U. S. Patent No. 6856787.

Regarding claim 20, Torikka discloses the invention substantially as claimed. However Torikka does not explicitly disclose wherein said satellite access network includes at least one satellite gateway connected to a satellite node connected to a second core network and together therewith constituting said traffic source, at least one satellite terminal connected to one of said base stations and to said node, and at least one communication satellite adapted to exchange data by radio with said satellite gateway, with said satellite terminal, and with user equipments adapted to exchange data with said base station via said resources.

Karabinis teaches wherein said satellite access network includes at least one satellite gateway connected to a satellite node connected to a second core network and together therewith constituting said traffic source (see e.g. fig. 2, col. 2 lines 13-28 and col. 4 lines 11-20), at least one satellite terminal connected to one of said base stations and to said node (see e.g. col. 4 lines 18-25), and at least one communication satellite adapted to exchange data by radio with said satellite gateway (see e.g. col. 4 lines 26-45), with said satellite terminal, and with user equipments adapted to exchange data with said base station via said resources (see e.g. col. 4 lines 46-65). At the time of the invention, it would have been obvious to include a satellite communication to the system of Torikka. Motivation for doing so would have been to widen the coverage area while enhancing reliability of virtually unaffected transmissions.

Art Unit: 2144

Regarding claim 9, Torikka-Karabinis disclose wherein said difference is a function of the dimensions of the coverage area of said satellite transmission means and/or said base station (see e.g. col. 7 line 62-col. 8 line 4). The same motivation utilized in the combination of claim 20, equally applies as well to claim 9.

Regarding claim 13, Torikka-Karabini disclose wherein said module is adapted to be connected via said connection interface to a satellite terminal coupled to said base station and to a satellite supplied by said traffic source (see e.g. col. 1 lines 23-29). The same motivation utilized in the combination of claim 20, equally applies as well to claim 13.

Regarding claim 15, Torikka-Karabini disclose adapted to be installed in a satellite terminal coupled to said base station and to a satellite supplied by said traffic source (see e.g. col. 3 lines 3-6). The same motivation utilized in the combination of claim 20, equally applies as well to claim 15.

Regarding claim 17, Torikka-Karabini discloses further including a satellite access network (see e.g. col. 1 line 42-43). The same motivation utilized in the combination of claim 20, equally applies as well to claim 17.

Regarding claim 18, the limitation of this claim has already been addressed (see claim 20 above).

Regarding claim 19, the limitations of this claim have already been addressed (see claim 20 above).

Regarding claim 21, Torikka-Karabini disclose use of a device and an installation each node being a radio network controller and each base station being a Node B (see e.g. col. 1 lines 20-31). The same motivation utilized in the combination of claim 20, equally applies as well to claim 21.

Response to Arguments

5. Applicant's arguments filed 05 September 2007 have been fully considered but they are not persuasive.

In substance, Applicant argues:

A) Torikka fails to teach data management device with control means of the resources.

In response to Applicant's argument A),

6. Torikka teaches comprehensive system for telecommunication that provides data management device with a control unit. The terminology used to refer to the data management device of the prior art may be different than that which is used in the instant application. Nonetheless, Torikka discloses Radio Network Control (RNC) also known as Base Station Controller (BSC), which includes control unit for determining the system requirement for the allocation of resources due to a change in the functionality

Art Unit: 2144

of the system resources (see e.g. fig. 1 and col. 9 lines 32-54). In response to applicant's argument that "control means configured to be coupled to a traffic source and to said interface and configured to take local control, on command, of at least a portion of said resources of said base station, instead of said terrestrial node, to enable transfer of data between said traffic source and said base station" a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Therefore, Torikka still meets the scope of the claim language as currently presented.

Applicant has had an opportunity to amend the claimed subject matter, and has failed to modify the claim language to distinguish over the prior art of record by clarifying or substantially narrowing the claim language. Thus, Applicant apparently intends that a broad interpretation be given to the claims and the Examiner has adopted such in the present and previous Office action rejections. See *In re Prater and Wei*, 162 USPQ 541 (CCPA 1969), and MPEP 2111.

Applicant employs broad language, which includes the use of word, and phrases, which have broad meanings in the art. In addition, Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and as reasonably

Art Unit: 2144

possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993).

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response, and reiterates the need for the Applicant to more clearly and distinctly defines the claimed invention.

Prior Art of Record

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to form PTO-892 (Notice of Reference Cited) for a list of relevant prior art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 2144

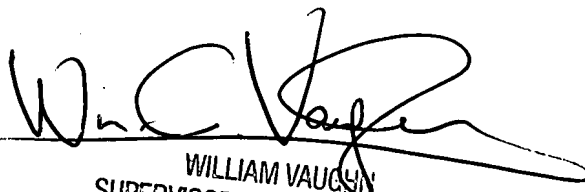
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohamed Ibrahim whose telephone number is 571-270-1132. The examiner can normally be reached on Monday through Friday from 7:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn, Jr. can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MI/ *ms*


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